IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3705 of 1998

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NITIN GRAHAK SAHAKARI BHANDAR LTD

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioner No. 1

MR KL PANDYA, AGP, for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 07/04/2004

ORAL JUDGEMENT

1. The petitioner is a Cooperative Consumer Society which is registered under the provisions of the Gujarat Cooperative Societies Act, 1961, constituted for and by the members of Scheduled Caste, Scheduled Tribe and Other Backward Class. The petitioner was given preference for appointment as a Nominee for levy sugar in view of the fact that the petitioner society was constituted by the members of Scheduled Caste, Scheduled Tribe and Other Backward Classes. The said order was passed on 20th November 1997, which is at Annexure-A to the petition. According to the petitioner, as a nominee of the

Government the petitioner receives the quota fixed by the Government of Levy Sugar for the purpose of distribution to the fair price shops and other traders at fixed rates of the zone in which the petitioner is appointed as a nominee. The Government appoints such nominees for the purpose of smooth and regular supply of sugar and to reduce the hardship and transportation expenses to the fair price shops and traders.

2. The Government appointed the petitioner as nominee for the levy of sugar and the petitioner purchased a shop and invested about Rs.10000/- after the establishment for running the business. The petitioner also obtained the wholesale licence bearing Registration No.N-163 under the Gujarat Essential (Licencing, Control and Stock Declaration) Order, 1981. The petitioner started their work pursuant to the order of appointment. According to the petitioner, considering their satisfactory work, the Director of Food, vide order dated 1.1.1998 permitted the petitioner to open the shop in Maninagar Zone and also allotted the stock of Sugar for its distribution.

3. The petitioner's nomination was cancelled by order dated 4th November 1998 unilaterally without issuing notice and without giving an opportunity of hearing to the petitioner. It is also the case of the petitioner that the Deputy Controller, Food and Civil Supplies, Ahmedabad City, by order dated 13.4.1998 cancelled the wholesale licence of the petitioner, that too without hearing the petitioner. Hence the petitioner has approached this Court by way of the present petition.

4. This Court while admitting the matter stayed the orders of both the authorities. Even though a reply was filed in Civil Application No.4747/98 and a rejoinder was also filed to the said reply, no reply has been filed in the present petition.

5. Heard the learned counsel for the respective parties. It is not disputed that the impugned orders have been passed without hearing the petitioner in violation of the principles of natural justice. Learned counsel for the respondents is unable to point out anything from the record that the impugned orders have been passed after hearing the petitioner. Therefore, both the impugned orders require to be quashed and set aside.

6. In the result, the petition succeeds. The impugned orders dated 4th April 1998 and 13th April 1998

are quashed and set aside. Rule is made absolute accordingly with no order as to costs.

7. It is clarified that if the authority is of the opinion that any action is required to be initiated against the petitioner society, they may do so after hearing the petitioner and after following the procedure required for such cancellation.

[K.S. JHAVERI, J.]
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